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Introduced by Senator Wright

August 17, 2010

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Senate Resolution No. 49—Relative to sports wagering.

1 WHEREAS, Since January 1, 1993, the federal Professional  
2 and Amateur Sports Protection Act (28 U.S.C. Sec. 3701 et seq.)  
3 has prohibited states and local governments from authorizing sports  
4 wagering; and

5 WHEREAS, Under the federal Professional and Amateur Sports  
6 Protection Act, it is unlawful for a governmental entity to sponsor,  
7 operate, advertise, license, or authorize by law or compact, a  
8 lottery, sweepstakes, or other betting, gambling, or wagering  
9 scheme (referred to as “sports betting”) based, directly or indirectly  
10 (through the use of geographical references or otherwise), on one  
11 or more competitive games in which amateur or professional  
12 athletes participate, or are intended to participate, or on one or  
13 more performances of those athletes in those games (28 U.S.C.  
14 Sec. 3702); and

15 WHEREAS, The federal Professional and Amateur Sports  
16 Protection Act makes it unlawful for a person to sponsor, operate,  
17 or promote, pursuant to the law or compact of a governmental  
18 entity, a lottery, sweepstakes, or other betting, gambling, or  
19 wagering scheme based, directly or indirectly (through the use of  
20 geographical references or otherwise), on one or more competitive  
21 games in which amateur or professional athletes participate, or are  
22 intended to participate, or on one or more performances of those  
23 athletes in those games (28 U.S.C. Sec. 3702); and

24 WHEREAS, The federal Professional and Amateur Sports  
25 Protection Act does not apply to a lottery, sweepstakes, or other  
26 betting, gambling, or wagering scheme in operation in a state or

1 other governmental entity, to the extent that the scheme was  
2 conducted by that state or other governmental entity at any time  
3 during the period beginning January 1, 1976, and ending August  
4 31, 1990 (28 U.S.C. Sec. 3704(a)(1)); and

5 WHEREAS, The federal Professional and Amateur Sports  
6 Protection Act does not apply to a lottery, sweepstakes, or other  
7 betting, gambling, or wagering scheme in operation in a state or  
8 other governmental entity where both the scheme was authorized  
9 by a statute as in effect on October 2, 1991, and a scheme described  
10 in Section 3702 of Title 28 of the United States Code, other than  
11 one based on parimutuel animal racing or jai alai games, was  
12 actually conducted in that state or other governmental entity at any  
13 time during the period beginning September 1, 1989, and ending  
14 October 2, 1991, pursuant to the law of that state or other  
15 governmental entity (28 U.S.C. Sec. 3704(a)(2)); and

16 WHEREAS, The federal Professional and Amateur Sports  
17 Protection Act does not apply to a betting, gambling, or wagering  
18 scheme conducted exclusively in casinos located in a municipality,  
19 if the scheme or a similar scheme was authorized to be operated  
20 in that municipality not later than January 1, 1994, and any  
21 commercial casino gaming scheme was in operation in that  
22 municipality throughout the 10-year period ending on January 1,  
23 1993, pursuant to a comprehensive system of state regulation  
24 authorized by that state's constitution and applicable solely to that  
25 municipality (28 U.S.C. Sec. 3704(a)(3)); and

26 WHEREAS, The federal Professional and Amateur Sports  
27 Protection Act does not apply to parimutuel animal racing or jai  
28 alai games (28 U.S.C. Sec. 3704(a)(4)); and

29 WHEREAS, As a result of the exceptions contained in the  
30 federal Professional and Amateur Sports Protection Act, sports  
31 betting is permitted in Nevada, Delaware, Oregon, and Montana,  
32 but prohibited in the remaining 46 states of the United States,  
33 including California; and

34 WHEREAS, The Senate for the State of New Jersey has passed  
35 a resolution supporting, and authorizing one of its members to  
36 join, a lawsuit in the United States District Court for the District  
37 of New Jersey challenging the federal ban on sports betting as  
38 unconstitutional; and

39 WHEREAS, The federal sports wagering ban is not effective  
40 in curbing illegal sports betting, and lifting that ban would allow

1 state gaming enforcement agencies to properly regulate and police  
2 this activity; and

3 WHEREAS, The federal Professional and Amateur Sports  
4 Protection Act discriminates against California and deprives the  
5 state of the opportunity afforded to Nevada, Delaware, Oregon,  
6 and Montana to raise millions of dollars in revenue that would  
7 potentially flow from the legislative authorization of sports betting  
8 in this state; and

9 WHEREAS, An end to the federal ban would potentially benefit  
10 the State of California significantly, thereby generating income  
11 for the state; now, therefore, be it

12 *Resolved by the Senate of the State of California*, That the Senate  
13 respectfully urges the President and the Congress of the United  
14 States to remove the federal ban on sports wagering by repealing  
15 the Professional and Amateur Sports Protection Act; and be it  
16 further

17 *Resolved*, That the Senate respectfully urges the Attorney  
18 General of California to take legal action on behalf of the State of  
19 California as the Attorney General deems appropriate and necessary  
20 to challenge enforcement of the federal Professional and Amateur  
21 Sports Protection Act, including the submission of an amicus brief  
22 in *Interactive Media Entertainment & Gaming Assoc., Inc. v.*  
23 *Attorney General of the United States* (United States Dist. Court,  
24 Dist. N.J.) Case 3:09-cv-01301-GEB; and be it further

25 *Resolved*, That the Secretary of the Senate transmit copies of  
26 this resolution to the President and Vice President of the United  
27 States, to the Majority Leader of the Senate, to the Speaker of the  
28 House of Representatives, to each Senator and Representative from  
29 California in the Congress of the United States, and the Attorney  
30 General of California.